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CHARLES ELMORE CROPLEY
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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1934.

No. 296

BORDEN'S FARM PRODUCTS COMPANY, INC.,
Appellant,

vs.

CHARLES H. BALDWIN, AS COMMISSIONER OF AGRICULTURE AND MARKETS OF THE STATE OF NEW YORK, ET AL., ETC.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

CONCESSION AS TO JURISDICTION AND JOINT MOTION TO ADVANCE.

TIMOTHY N. PFEIFFER,
Counsel for Appellant.
JOHN J. BENNETT, JR.,
HENRY S. MANLEY,
Counsel for Appellees.

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Heretofore the appellant has served upon the undersigned solicitors for the appellees a jurisdictional statement as required by the rules of this Court. The solicitors for the appellees acknowledge such service, concede that the jurisdictional statement is true and correct and that the appeal is properly taken and within the jurisdiction of the Court, and state that no statement in opposition to

jurisdiction will be filed on behalf of the appellees or any of them.

The appeal is entitled to preferred and speedy determination under section 380 of Title 28 of the United States Code (Jud. Code, § 266) and under the rules of this Court. The question involved is the constitutionality of a provision of the New York State Milk Control Law which affects to the extent of one cent per quart the price of a large volume of milk sold by the appellant and three other companies in the City of New York. Whether this price differential is constitutional and shall continue is a question of great importance to a large number of milk dealers doing business in that city, and is of considerable importance in the administration of the Milk Control Law. It is desirable that the question be finally determined without unnecessary delay.

It is respectfully prayed that probable jurisdiction be found and the appeal advanced and set down for argument on November 5 or November 12, 1934, or on such other date as the Court shall direct.

Dated September 15, 1934.

MILBANK, TWEED, HOPE & WEBB,
Solicitors for Appellant.
TIMOTHY N. PFEIFFER,
Of Counsel for Appellant.
JOHN J. BENNETT, JR.,
HENRY S. MANLEY,
Solicitors for Appellees.